

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOHN D. MOORE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 3:20-CV-01059-NJR

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This matter is before the Court on a motion for leave to proceed *in forma pauperis* and a motion for service of process at government expense filed by Plaintiff John D. Moore (Docs. 3-4). A federal court may permit an indigent party to proceed without pre-payment of fees. 28 U.S.C. § 1915(a)(1). Nevertheless, a court can deny a qualified plaintiff leave to file *in forma pauperis* or can dismiss a case if the action is clearly frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i). The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983). When assessing a motion to proceed *in forma pauperis*, a district court should inquire into the merits of a plaintiff's claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

Here, the Court is satisfied from Moore's affidavit that he is indigent. Furthermore, the Court does not find anything in the file to indicate that this action is frivolous or malicious.

Thus, the Court **GRANTS** the motion to proceed *in forma pauperis* without prepayment of fees and costs and motion for service of process at government expense (Docs. 3-4). The Court

notes, however, that should it become apparent that the action is frivolous or malicious at any time in the future, it may dismiss the case pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

If Moore wishes the United States Marshals Service to serve process in this case, he shall provide to the United States Marshals Service the summons issued in this case, the appropriately completed USM-285 forms, and sufficient copies of the complaint for service. The Court **DIRECTS** the Clerk of Court to send Moore a sufficient number of blank summons forms and USM-285 forms for him to complete. The Court further **DIRECTS** the United States Marshal, upon receipt of the aforementioned documents from Moore, and pursuant to Federal Rule of Civil Procedure 4(c)(3), to serve a copy of the summons, complaint and this order upon the defendants—Commissioner of Social Security, the United States Attorney for the Southern District of Illinois and the Attorney General of the United States, Washington, D.C.—in the manner specified by Federal Rule of Civil Procedure 4(i)(1) & (2), as directed by Moore. Costs of service shall be borne by the United States.

IT IS SO ORDERED.

DATED: December 15, 2020

The image shows a handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style. Behind the signature, there is a faint circular seal of the United States District Court for the Southern District of Illinois.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge